

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

DARRELL A. BRITTINGHAM

Plaintiff

vs.

JOSEPH E. McGEENEY, et al

Defendants

*
*
*
*
*
*
*
*

Civil No.: 02 CV 4055 RDB

**RESPONSE TO MOTION TO DISMISS OF DEFENDANTS MCGEENEY
AND TOWN COUNCIL OF CENTREVILLE, INC. FOR FAILURE TO
STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

Darrell A. Brittingham, the Plaintiff, by and through his attorneys, Michael L. Sandul and McCarthy & Costello, L.L.P., hereby responds to the Defendants' Motion to Dismiss and states:

1. The Complaint states claims upon which relief may be granted against the Defendants.
2. Defendant McGeeney is not immune from liability under the Maryland Tort Claims Act.
3. Plaintiff has alleged a Monell claim against the Town Council of Centreville, Inc.
4. The Maryland Tort Claims Act does not apply to local governments nor its employees and compliance with it is not required with regard to claims against Defendants McGeeney and Town Council of Centreville, Inc.

5. Defendants are not entitled to qualified immunity for either the federal or state claims against them.

6. Defendant McGeeney is liable for punitive damages but Plaintiff concedes that Town Council of Centreville, Inc, is not.

WHEREFORE, for the foregoing reasons, the Plaintiff respectfully requests that this Honorable Court deny the Defendants' Motion to Dismiss for Failure to State a Claim Upon Which Relief May Be Granted except those portions of the Complaint against Defendant Town Council of Centreville, Inc. which requests punitive damages.

McCARTHY & COSTELLO, L.L.P.

By:

MICHAEL L. SANDUL
One Town Center
4201 Northview Drive
Suite 410
Bowie, Maryland 20716
(301) 262-7422
Attorney for Plaintiff

STATEMENT OF POINTS AND AUTHORITIES

The points and authorities in support of this Response to Motion to Dismiss, are set forth in an accompanying Memorandum of Law.

McCARTHY
&
COSTELLO
L.L.P.
ONE TOWN CENTER
4201 NORTHVIEW DRIVE
SUITE 410
BOWIE, MD 20716
PHONE 301-262-7422
FAX 301-262-0562

MICHAEL L. SANDUL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15TH day of May, 2003, a copy of the foregoing Response to Motion to Dismiss, or, Alternatively, for Summary Judgment with accompanying Memorandum in Support Thereof was mailed, postage prepaid to:

JOHN F. BREADS, JR., Esquire
7172 Columbia Gateway Drive
Suite E
Columbia, Maryland 21046
Attorney for Defendants Hedding & Greene

FRANK MANN, Esquire
Office of the Attorney General
200 St. Paul Place
Baltimore, Maryland 21201

MICHAEL T. HAMILTON, Esquire
The Bonaparte Building
8 E. Mulberry Street
Baltimore, Maryland 21202-2105

MICHAEL L. SANDUL

McCARTHY
&
COSTELLO
L.L.P.
ONE TOWN CENTER
4201 NORTHVIEW DRIVE
SUITE 410
BOWIE, MD 20716
PHONE 301-262-7422
FAX 301-262-0562